

N. Patrick Flanagan Esquire
Nevada Bar No. 952
Hale, Lane, Peek, Dennison, Howard,
Anderson and Pearl
100 West Liberty Street, Tenth Floor
P.O. Box 3237
Reno, Nevada 89505
Telephone: (702) 327-3000

Eric M. Lieberman, Esquire
Rabinowitz, Boudin, Standard,
Krisnsky & Lieberman, P.C.
740 Broadway, Fifth Floor
New York, New York 10003
Telephone: (212) 254-1111

Attorneys for Defendant Church of
Scientology International

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

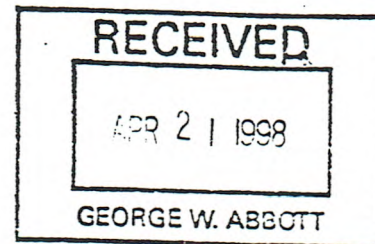
GERALD ARMSTRONG,

Plaintiff,

vs.

DAVID MISCAVIGE and CATHY
NORMAN, individuals; CHURCH OF
SCIENTOLOGY INTERNATIONAL, a
California corporation; the RELIGIOUS
TECHNOLOGY CENTER, a California
corporation; the SEA ORGANIZATION,
a California based unincorporated entity;
and the CHURCH OF SCIENTOLOGY
OF TEXAS, a Texas corporation,

Defendants.



CASE NO. CV-N-97-00670 ECR (RAM)

**MEMORANDUM OF POINTS AND
AUTHORITIES OF DEFENDANT
CHURCH OF SCIENTOLOGY
INTERNATIONAL IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS
COMPLAINT**

Defendant Church of Scientology International, by its undersigned counsel, submits this Memorandum of Points and Authorities in support of its motion to dismiss for lack of subject matter jurisdiction; lack of personal jurisdiction; improper venue; and because plaintiff is a fugitive from justice, is in contempt of court, and has fled from a bench warrant issued by the Superior Court of California. Marin

County.

PRELIMINARY STATEMENT

Defendant Church of Scientology International ("CSI") brings this motion to dismiss plaintiff's complaint for libel and intentional infliction of emotional distress pursuant to FRCP 12(b)(1) and 12(b)(2). Not only did Plaintiff fail to allege adequately the basis for diversity jurisdiction, stating only that he was "a resident of Nevada at the time of filing this complaint" (Compl. ¶ 5), but the defect cannot be cured by repleading. As the accompanying declarations and exhibits show, plaintiff is a fugitive from justice who recently fled his longstanding domicile in California (as of August, 1997) for Canada, where he resided at the time of filing. He has never established domicile in Nevada. For purposes of diversity jurisdiction, he remains a domiciliary and citizen of California. Thus, the complaint should be dismissed for lack of subject matter jurisdiction.

Lack of personal jurisdiction over the defendants provides an additional ground for dismissing this complaint. Plaintiff's complaint is devoid of any allegations connecting CSI or any of the other defendants in any way whatsoever to Nevada, because neither defendants nor the alleged acts involve Nevada – either directly or indirectly. Defendants are – as plaintiff concedes – residents of California or Texas. (Compl. ¶ 1.) The act forming the basis of the complaint concerns the sending of an allegedly defamatory letter from Texas to Alabama; plaintiff alleges no publication or distribution to anyone in Nevada. As there are no contacts between defendants and Nevada, there is absolutely no basis for this Court to exercise personal jurisdiction over defendants. Indeed, plaintiff does not even allege personal jurisdiction. Therefore, the complaint should be dismissed on this basis as well.

For similar reasons, venue of this action is improper under 28 U.S.C. § 1391(a). No defendant resides or may be found in the district or state, and no part of the events giving rise to the purported claim occurred in this judicial district.

Finally, plaintiff should not be permitted to use this court as a refuge to litigate a claim while at the same he is in contempt of court and a fugitive from justice of the courts of California.

//

//

STATEMENT OF FACTS

I. Background

A long-time California domiciliary, plaintiff Gerald Armstrong is a fugitive who recently fled California in February 1997 for Canada where he remains today to avoid a criminal sentence for contempt of court. (Declaration of Andrew H. Wilson, hereinafter "Wilson Decl.", ¶¶ 10-22.) He faces an outstanding bench warrant for his repeated and blatant violations of a judgment of permanent injunction entered against him in Marin County Superior Court. (*Id.* ¶ 10 and Ex. E.) The injunction followed an order entered by the Hon. Gary W. Thomas summarily adjudicating various causes of action, including one for permanent injunctive relief. See Order of Permanent Injunction of 10/17/95, (*Id.*, Ex. A). Judge Thomas has sentenced Armstrong to a total of 28 days in jail and a fine of \$3,600 for fourteen separate violations of the injunction. (*Id.* ¶¶ 9-11.) And the California Court of Appeal dismissed Armstrong's appeal from the order of permanent injunction precisely on the ground that, as a fugitive from justice, Armstrong may not invoke its processes. (*Id.* ¶ 5 and Ex. C.)

It undoubtedly is for these reasons that Armstrong improperly has sought to bring this action in this forum, despite the facts that none of the alleged acts took place in Nevada, that none of the defendants have the barest minimum contacts in Nevada, and that even Armstrong has only a purported future expectation of establishing a residence in Nevada. Even assuming the slightest degree of colorability to Armstrong's complaint, which CSI denies, the case properly belongs in the courts of California. But Armstrong dare not – indeed cannot – institute a lawsuit in California, for fear not only that the case will be dismissed because he is a fugitive, but also that any appearance by him will result in execution of the outstanding bench warrant for his arrest.

II. Complaint Allegations

Plaintiff filed this lawsuit on or about November 24, 1997, seeking to recover for statements contained in a May 1993 letter mailed by defendant Cathy Norman from Texas on or about October 21, 1996, to two persons in Alabama. Based on this act, Plaintiff alleges eleven claims for statements contained in the May 1993 letter and one claim of intentional infliction of emotional distress. Plaintiff does not allege he was injured by the statements, rather contending the statements constitute libel *per se* and that, as such, he is entitled to general, special, and punitive damages to be adduced at trial, but estimated to exceed

1 \$900,000.

2 As to plaintiff's allegations concerning subject matter and personal jurisdiction, he alleges
3 only that "[s]ubject matter jurisdiction resides in this Court pursuant to 28 U.S.C.A. § 1332, as Plaintiff is
4 a resident of Nevada, and defendants are residents of California and Texas." (Compl. ¶ 1.) Plaintiff makes
5 no allegations of domicile or "citizenship," within the meaning of 28 U.S.C. § 1332. In addition, plaintiff
6 makes no allegations upon which to premise personal jurisdiction; the complaint contains no allegations
7 of Nevada citizenship, residence or contacts on the part of defendants, no allegations of any acts in Nevada,
8 and no allegations of any direct or indirect effects in Nevada.

9 **III. Jurisdictional Facts**

10 In fact, by his own sworn declaration dated December 15, 1997, plaintiff acknowledged that
11 as of December 15 three weeks *after* the complaint in this case was filed, he had not yet moved to Nevada.
12 let alone established a domicile there. He stated:

13 8. When I received Scientology's motion I was in the process of moving
14 to my new residence in Nevada, and my needed files were divided between
15 Canada and Nevada. I anticipate completing this move within the next two
16 weeks.

17 9. I am at the time of writing this request for extension in Nevada, and
18 will be here four days in connection with other legal matters. See, e.g.,
19 declaration Exhibit 14, complaint in Gerald Armstrong v. David Miscavige,
20 Scientology, et al., U.S. District Court, District of Nevada, Case No. CV-N-
21 97-00670-HDM (RAM). In order to complete my opposition, I require my
22 computer which is in Canada.

23 (Wilson Decl. ¶¶ 12 and 19 and Ex. H (¶¶ 8, 9).) Therefore, his jurisdictional allegation that he is "a
24 resident of Nevada at the time of filing this complaint," (Compl. ¶ 5), is just that: a statement that plaintiff
25 was in Nevada at the moment the complaint was filed, no more, no less.

26 The situation was no different by January 26, 1998. On that date, Armstrong executed a
27 declaration from Canada for use in one of the contempt proceedings then pending against him in Marin
28 County Superior Court (Wilson Decl. ¶ 15 and Ex. H) stating that he had "left the U.S. in February 1997"
(*Id.*, Ex. H, ¶ 51), that he had been in Nevada on December 17, 1997 "making arrangements for completing
my move to Nevada from where I had been staying in Canada" (*id.* ¶ 58), and that he had returned to Canada
(*id.*).

Indeed, it has been establishing through personal contact of Sheila M. Werner with Armstrong in

Chilliwack, British Columbia, Canada, that Armstrong lived there during the entire first part of this year and has no intention of moving to Nevada. (*id.* 21 and Ex. L)

Armstrong was still living in Canada at least as late as April 1, 1998. On that date, he posted a message to a public Internet newsgroup stating, *inter alia*, "I have been extremely busy in Canada, and so involved with so many things, that it has not been ultimately timely to move to my next spot . . ." (*Id.* ¶ 16 and Ex. I)

ARGUMENT

I. THE COMPLAINT SHOULD BE DISMISSED BECAUSE THIS COURT LACKS SUBJECT MATTER JURISDICTION ON THE BASIS OF DIVERSITY OF CITIZENSHIP

Federal district courts have original jurisdiction over civil actions where the matter in controversy exceeds \$75,000, exclusive of interest or costs, and is between "citizens of different States." 28 U.S.C. § 1332(a)(1). "To demonstrate citizenship for diversity purposes a party must (a) be a citizen of the United States, and (b) be domiciled in a state of the United States." *Lew v. Moss*, 797 F.2d 747, 749 (9th Cir. 1986). "A person is 'domiciled' in a location where he or she has established a 'fixed habitation or abode in a particular place, and [intends] to remain there permanently or indefinitely.'" *Id.* at 749-750; *Abbott v. United Venture Capital*, 718 F.Supp. 823, 826 (D. Nev. 1988); *Safeco Ins. Co. of America v. Mirczak*, 662 F. Supp. 1155, 1157 (D. Nev. 1987).

In the instant case, plaintiff's claim that he was "a resident of Nevada at the time of filing this complaint," (Compl. ¶ 5), is insufficient to establish domicile for the purpose of diversity jurisdiction because it does not indicate a fixed habitation in Nevada or provide evidence of intent to remain there permanently. Rather, plaintiff's claim is – as his own sworn declaration shows – only that he was a resident of Nevada at the time the complaint was filed. Such a statement, even if true, is insufficient to allege domicile for purposes of diversity jurisdiction. *Wolfe v. Hartford Life & Annuity Ins. Co.*, 148 U.S. 389, 389, 13 S.Ct. 602, 603 (1893) (avermment of diverse "residence" is not sufficient to confer federal jurisdiction; diverse citizenship must either be averred or appear from other parts of the record). *See also Realty Holding Co. v. Donaldson*, 268 U.S. 398, 399, 45 S.Ct. 521, 521 (1925) (allegation that defendant is "resident" of Michigan insufficient allegation of diverse citizenship to give federal court jurisdiction); *Leveraged Leasing Admin. v. Pacificorp Capital*, 87 F.3d 44, 47 (2nd Cir. 1996) ("[i]t is firmly established that diversity of citizenship 'should be distinctly and positively averred in the pleadings, . . .'[citing *Wolfe*]).

1 It is also clear that a statement of the parties' residence is insufficient to establish their citizenship").

2 **A. Plaintiff Was Not Domiciled In Nevada At The Time Of Filing The**
3 **Complaint**

4 Further, as the Wilson declaration and attached exhibits show, plaintiff was not domiciled
5 in Nevada at the time he filed his lawsuit because, at that time, he was still living in Canada, having fled
6 there to avoid execution of his sentence for contempt of the Injunction. "A person's old domicile is not lost
7 until a new one is acquired. . . . A change in domicile requires the confluence of (a) physical presence at
8 the new location with (b) an intention to remain there indefinitely." *Lew v. Moss*, 797 F.2d at 750 (citations
9 omitted); *Barber v. Varleta*, 199 F.2d 419, 423 (9th Cir. 1952). *See also Lloyd v. Loeffler*, 694 F.2d 489,
10 490 (7th Cir. 1982) ("[p]robably the last domicile of the fugitive before he fled should be his domicile for
11 diversity purposes").

12 Even assuming he temporarily was in Nevada at the moment the complaint was filed,
13 plaintiff most certainly was not domiciled there at the time because he was, at the most, only in the process
14 of moving there. *See, e.g., Carter v. McConnel*, 576 F.Supp. 556 (D. Nev. 1983) (holding defendant was
15 citizen of Colorado for diversity purposes because he had not yet acquired a new domicile in California: at
16 time complaint was filed, defendant was in process of moving from Colorado to California, had left
17 Colorado with no intent to return, and was staying in Nevada). Indeed, plaintiff shows neither the requisite
18 physical presence nor intent to permanently relocate to establish citizenship of a State for diversity
19 jurisdiction. As late as December 15, 1997 – three weeks after he filed this lawsuit – Plaintiff stated he
20 "anticipates completing this move [to Nevada] within the next two weeks." (Wilson Decl., Ex. G, ¶ 8.)
21 Three and one-half months later, Armstrong was still living in Canada, and stated that "it has not been
22 ultimately timely to move to my next spot. . ." (*Id.* ¶ 16 and Ex.I) That Armstrong has not physically
23 relocated to Nevada with intent to remain there indefinitely is also borne out by the fact he appears to have
24 *no residence* – permanent or temporary – in Nevada, as is indicated by the "care-of" address on his *in pro*
25 *per* declaration and the envelope in which it was mailed. (*See Id.* ¶ 13)

26 **B. Plaintiff Has No Basis To Invoke Diversity Jurisdiction**

27 Finally, the complaint should be dismissed because, absent any indicia of Nevada domicile,
28 plaintiff has no basis to invoke diversity jurisdiction. In *Lew*, the Ninth Circuit held that there is a
presumption in favor of an established domicile as against a newly acquired one and that in such a case, the

opponent must produce enough evidence of the new domicile to withstand a directed verdict. *Lew*, 797 F.2d at 751. *Lew* concerned defendant's attempt to avoid enforcement of a money judgment by moving to dismiss for lack of diversity jurisdiction; defendant had argued that at the time plaintiff filed suit, defendant was a resident of Hong Kong and as a result, the suit was not between citizens of different States. In finding the opponent was still domiciled in California and not in Hong Kong by virtue of a recent move, the court considered dispositive the fact that during the relevant time period, the opponent stayed at hotels and did not rent an apartment until several months after he had received notification of judgment.

Similarly, plaintiff in the case at bar is presumed to be domiciled in California, not Nevada. Until at least early 1997, plaintiff was domiciled in California. (Wilson Decl. ¶¶ 17-18.) Between June and August of 1997, plaintiff fled from California to Canada to avoid fine and imprisonment for contempt for violating the permanent injunction entered against him. (*Id.* ¶ 18 and Ex. D at ¶¶ 8-9.) According to his sworn declaration in the related suit, he can produce *no evidence* of a Nevada domicile: He admits that three weeks *after* he filed this lawsuit, he still had not moved to Nevada. Therefore, there is no diversity between the parties.

Thus, plaintiff has no basis to assert diversity jurisdiction, and the complaint should be dismissed for lack of subject matter jurisdiction.

II. THE COMPLAINT SHOULD BE DISMISSED BECAUSE THIS COURT LACKS PERSONAL JURISDICTION OVER DEFENDANTS

Lack of personal jurisdiction provides a second, independent ground for dismissing the complaint. In view of plaintiff's failure to plead personal jurisdiction, it is unnecessary for defendants to do more because "[h]e must allege in his pleading the facts essential to show jurisdiction. If he fails to make the necessary allegations he has no standing." *McNutt v. General Motors Acceptance Corporation*, 298 U.S. 178, 189, 56 S.Ct. 780, 785 (1936). *See also Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir 1992) (quoting and relying on *McNutt*); *Industrial Tectonics, Inc. v. Aero Alloy*, 912 F.2d 1090, 1092 (9th Cir. 1990) ("[t]he party asserting jurisdiction has the burden of proving all jurisdictional facts [citing *McNutt*]"). Plaintiff's utter failure to allege any facts to show personal jurisdiction compels dismissal of the complaint.

Assuming *arguendo* plaintiff had made an allegation that personal jurisdiction existed. "[w]hen a defendant moves to dismiss for lack of personal jurisdiction, the plaintiff is 'obligated to come forward with facts, by affidavit or otherwise, supporting personal jurisdiction.'" *Scott v. Breeland*, 792 F.2d

1 925, 927 (9th Cir. 1986). Here, as the complaint on its face and the accompanying declaration of Michael
2 Rinder demonstrate, plaintiff cannot come forward with facts supporting personal jurisdiction because there
3 are none. Plaintiff clearly states in his complaint that defendants are citizens of California or Texas.
4 (Compl. ¶¶ 1, 6-10), and that the act which triggered the complaint was the mailing of a letter from Texas
5 to persons in Alabama. (Compl. ¶ 20). Plaintiff does not allege any distribution, publication, or other effect
6 in Nevada.

7 The declaration of Michael Rinder provides further support of plaintiff's allegations, and lack
8 thereof, that defendants have no contacts with Nevada. CSI is a California corporation. (Rinder Decl. ¶ 2.)
9 CSI does not have offices or subsidiaries in Nevada, is not qualified to do business in Nevada, does not own
10 real or personal property in Nevada, does not have bank accounts in Nevada and does not have employees
11 in Nevada. (*Id.* ¶ 3-4.) There are no acts by which plaintiff could argue that defendants purposefully
12 availed themselves of the privilege of conducting business within the forum state. (*Id.* ¶¶ 2-4.) *Cf. Hirsch*
13 *v. Blue Cross, Blue Shield of Kansas City*, 800 F.2d 1474, 1480 (9th Cir. 1985) (insurer which was neither
14 authorized nor licensed to do business in California but which agreed to provide coverage to California
15 entity and its employees purposefully availed itself of benefits and protections of the forum state). There
16 are not even incidental contacts with Nevada by which plaintiff might attempt to fashion an argument that
17 personal jurisdiction exists. *Cf. Scott*, 792 F.2d at 927 (plaintiff's allegations of minimum contacts were
18 insufficient to support personal jurisdiction where only links with forum state were boarding a flight to
19 California and declaration that multiple record stores in Los Angeles carried records of defendants' music).

20
21 Therefore, the complaint should be dismissed on the basis of lack of personal jurisdiction
22 because plaintiff fails to allege – and cannot allege – any facts sufficient to constitute a showing of personal
23 jurisdiction over defendants.

24 //

25 //

26 //

27 //

28 //

1 **III. The Complaint Should Be Dismissed Because Venue Is Not Proper in Nevada**

2 Under 28 U.S.C. § 1391(a), venue is not proper in the District of Nevada. In a diversity
3 action, venue is proper *only* in:

4 (1) a judicial district where any defendant resides, if all defendants reside in
5 the same State, (2) a judicial district in which a substantial part of the events
6 or omissions giving rise to the claim occurred, or a substantial part of
7 property that is subject to the action is situated, or (3) a judicial district in
which any defendant is subject to personal jurisdiction at the time the action
is commenced, if there is no district in which the action may otherwise be
brought.

8 28 U.S.C. § 1391(a). None of these three possible alternatives provides for venue in Nevada.

9 The defendants in this action are residents of California or Texas. (Compl. ¶1.) As such, §
10 1391(a)(1) does not provide venue in Nevada because the defendants do not all reside in the same state and
11 no defendant resides in Nevada. As is plain from the face of Armstrong's complaint, all of the events he
12 alleges occurred in Texas, Alabama, and possibly California and none of the events that give rise to his
13 claims took place in Nevada. As such, venue is not proper in Nevada under § 1391(a)(2). While venue
14 might be proper under § 1391(a)(2) in Texas, Alabama, or California because some of the events giving rise
15 to the claim are alleged to have occurred in those states, venue cannot be proper in Nevada pursuant to §
16 1391(a)(3) because that provision only applies "if there is no district in which the action may otherwise be
17 brought." See 15 Charles Wright, Arthur Miller, et al, *Federal Practice and Procedure*, § 3802.1 (1997
18 Pocket Part at 5) (§1391(a)(3) is a "fallback" that "can be used only if there is no district in which venue
19 can be laid under [subsections] (a)(1) or (a)(2)"). Venue is not proper under § 1391(a)(3) for the additional
20 reason that defendants are not subject to personal jurisdiction in Nevada, as more fully demonstrated above
21 in Section II.

22 **IV. This Court Should Dismiss Armstrong's Complaint Because He Is A Fugitive And Contemnor**
23 **And This Court Should Not Permit Its Jurisdiction To Be Invoked So That The Jurisdiction**
Of Another Court May Be Subverted

24 Gerald Armstrong is in contempt of the California Superior Court, Marin County. That court
25 ordered, after prolonged proceedings between Armstrong and CSI concerning Armstrong's failure to meet
26 his obligations under a 1986 settlement agreement and subsequent injunctions issued by the Superior Court,
27 that Armstrong be confined for a total of 28 days and fined a total of \$3,600 for his repeated violations of
28 the Superior Court's injunctions. (Wilson Decl. ¶¶ 9-11, Exs. D,E,F.) Rather than submit to the contempt

1 orders of the Superior Court, or properly noticing timely appeals from them, Armstrong fled the United
2 States and he has yet to purge his contempt. Armstrong's appeal of the merits of the Superior Court action
3 was dismissed by the California Court of Appeal because Armstrong was a fugitive. (Wilson Decl. ¶¶ 5 and
4 14, Ex. C.)

5 Having fled California to Canada to evade the legal authorities in that jurisdiction, Armstrong
6 now seeks safe haven for his litigation in Nevada. Yet, Nevada has no connection to any of the events
7 underlying the action and no connection to any of the parties, except for the fleeting hours in which
8 Armstrong was in the jurisdiction to file his complaint. Instead, Armstrong invokes the jurisdiction of this
9 Court because he dare not bring his claims against CSI in a California court for fear that he will be forced
10 to serve his sentence for contempt and to pay the court-imposed fine.

11 It is the rule under the precedent of both the United States Supreme Court, *Smith v. United*
12 *States*, 94 U.S. 97 (1876), and the Nevada Supreme Court, *Closset v. Closset*, 280 P.2d 290, 71 Nev. 80
13 (1955), that a fugitive may not subvert the judicial process and be permitted to prosecute an appeal until the
14 contempt is purged. So too should this rule be applied to bar Armstrong's action here. Armstrong is
15 proceeding in Nevada so that he may avoid the consequences of the contempt order in California. and this
16 Court should not permit its jurisdiction to be invoked so that the jurisdiction of another court may be
17 subverted and the Complaint should therefore be dismissed.

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //


28 //

Hale, Lane, Peek, Dennison, Ho
100 West Liberty Street, 10th Floor
Reno, Nevada 89501

CONCLUSION

For the foregoing reasons, defendant CSI respectfully requests that the motion for dismissal of this action be GRANTED.

DATED this 20th day of April, 1998.


N. Patrick Flanagan, Esquire
Nevada Bar No. 952
Hale, Lane, Peek, Dennison, Howard,
Anderson and Pearl
100 West Liberty Street, 10th Floor
P.O. Box 3237
Reno, Nevada 89505
(702) 327-3000

RABINOWITZ, BOUDIN, STANDARD
KRINSKY & LIEBERMAN, P.C.
Eric M. Lieberman, Esq.
740 Broadway, 5th Floor
New York, NY 10003
(212) 254-1111

*Attorneys for Defendant Church of
Scientology International*

RECEIVED

APR 21 1998

GEORGE W. ABBOTT

PROOF OF SERVICE BY MAIL

I, NIKKI G. GROVES, declare:


I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Hale, Lane, Peek, Dennison, Howard, Anderson and Pearl. My business address is 100 W. Liberty Street, Tenth Floor, Reno, Nevada 89501. I am over the age of 18 years and not a party to this action.

I am readily familiar with Hale, Lane, Peek, Dennison, Howard, Anderson and Pearl's practice for collection and processing of its outgoing mail with the United States Postal Service. Such practice in the ordinary course of business provides for the deposit of all outgoing mail with the United States Postal Service on the same day it is collected and processed for mailing.

On April 20, 1998, I served the foregoing **CHURCH OF SCIENTOLOGY INTERNATIONAL'S MOTION TO DISMISS COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION; LACK OF PERSONAL JURISDICTION; IMPROPER VENUE; AND BECAUSE PLAINTIFF IS A FUGITIVE FROM JUSTICE** by placing a true copy thereof in Hale, Lane, Peek, Dennison, Howard, Anderson and Pearl's outgoing mail in a sealed envelope, addressed as follows:

George W. Abbott, Esquire
George W. Abbott, Chtd.
2245 B Meridian Boulevard
P.O. Box 98
Minden, Nevada 89423

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on April 20, 1998.



NIKKI G. GROVES

Hale, Lane, Peek, Dennison, Hc
100 West Liberty Street, 10th Floor
Reno, Nevada 89501